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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/075,730

Applicant(s)

MCKIRCHY, KAREN A.

Examiner

KIEU D. VU

Art Unit

2175

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office action is responsive to the Amendment filed on 05/14/08.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 16-20 and 35-41 are rejected under 35 U.S.C. 101

Regarding claims 16-20 and 35-41, the language of the claims is non-functional descriptive material. Furthermore, the "interactive learning system" as claimed does not belong into any one of four statutory categories (process, machine, manufacture, or composition of matter).

4. To expedite a complete examination of the instance application, the claims rejected under 35 USC 101 (non-statutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 102

- . The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 7-11, 14, 16, 19, 24, 31, and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Massaro et al ("Massaro", USP 5535321).

Regarding claim 1, Massaro teaches a method of providing instruction to a user of an instructional program comprising presenting an interactive instructional program to the user via an information processing device (method of displaying help information matching characteristics of a user) (see column 1, lines 64-67), the program having a plurality of sections related to a subject (the program has several function which is identified by an identifier 24) (Fig. 3); making available to the user additional instructional options to the user related to a section (see levels in Fig. 3); the additional instructional options including information presented to the user in a form perceivable by the user at a first level of sophistication (information presented to the user at basic level), additional instructional information available to the user in at least first and second levels of sophistication, any of the at least first and second levels of sophistication being user selectable, at any time in any order (information presented to the user at basic, intermediate, or advanced levels) (the user can select the levels of sophistication at any time he or she desires, line 63 of col. 3 to line 7 of col. 4).

Regarding claim 2, Massaro teaches that the first level of sophistication comprises information at a first level of comprehension (first level of sophistication is basic level which comprises information at basic level) (see Fig. 3).

Regarding claim 3, Massaro teaches that the second level of sophistication comprises information at a second level of comprehension (second level of sophistication is intermediate level which comprises information at intermediate level) (see Fig. 3).

Regarding claim 4, Massaro teaches that the second level of comprehension is at a higher level than the first level of comprehension (col. 6, lines 10-25).

Regarding claim 7, Massaro teaches the first level of sophistication has short, plain language, summary fashion (col. 6, lines 10-25).

Regarding claim 8, Massaro teaches that the second level of sophistication has long, high educational, more complex language (col. 6, lines 10-25)

Regarding claim 9, Massaro teaches that each level of sophistication has one detail of information attribute that differs from the other level of sophistication. For example, detail of information of basic level is different than the detail of information in expert level (see col. 6, lines 10-25).

Regarding claim 10, Massaro teaches that information is presented to the user in a form perceivable by the user at least a third level of sophistication (information presented to the user at advanced level) (Fig. 3).

Regarding claims 11 and 16, Massaro teaches an apparatus for providing additional instruction to a user of an instructional program (device for displaying help information matching characteristics of a user) (see column 1, lines 64-67) comprising a computer including a digital information storage medium and a software program loaded on the digital storage medium (see Figure 1), the program comprising

(a) interactive instructional information relating to a subject matter (Fig. 3).

(b) an instruction module including additional instructional options related to the plurality of sections (function), the additional instructional options including additional instructional information available to the user in no less than two levels of sophistication, any of the levels of sophistication being user-selectable, at any time and in any order (information presented to the user at basic, intermediate, or advanced levels) (the user can select the levels of sophistication at any time he or she desires, line 63 of col. 3 to line 7 of col. 4).

Regarding claims 14 and 19, Massaro teaches that the two levels of sophistication include a first level (basic level) comprising a first textual content (information presented to the user at basic level) and a second level (intermediate level) comprising a second textual content (information presented to the user at intermediate level) (Fig. 3).

Regarding claims 24, 31, and 38, Massaro teaches the information comprises instruction related to the subject (col. 6, lines 10-25).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-6, 12-13, 15, 17, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Massaro and Cook et al ("Cook", USP 5727950).

Regarding claims 5 and 6, Massaro teaches at least two levels of sophistication of the help information (basic level and intermediate level). Massaro differs from the claim in that Massaro does not teach that the first level of sophistication comprises a first type of voice and/or the second level of sophistication comprises a second type of voice. However, Cook teaches that plurality of voices/gestures/motions can be used in the tutoring system (help information) (see col 6, lines 13-16) depending on the individual student. These voices/gestures/motions are associated with different help agents of different levels. For example, "Study Buddies" level are on-screen agents for grade schoolers, and coach level is on-screen agent of an adult (see col 6, lines 1-5). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural voices associated with plural agents for different help levels to provide first and second type of voices in Massaro's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 12, Massaro teaches at least two levels of sophistication of the help information (basic level and intermediate level). Massaro differs from the claim in that Massaro does not teach that the first level of sophistication comprises a first voice and the second level of sophistication comprises a second voice. However, Cook teaches that plurality of voices/gestures/ motions can be used in the tutoring system (help information) (see col 6, lines 13-16) depending on the individual student. These voices/gestures/motions are associated with different help agents of different levels. For

example, "Study Buddies" level are on-screen agents for grade schoolers, and coach level is on-screen agent of an adult (see col 6, lines 1-5). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural voices associated with plural agents for different help levels to provide first and second voices in Massaro's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 13, Massaro teaches that the two levels of sophistication include a first level (basic level) and a second level (intermediate level). Massaro does not teach that the first level of sophistication comprises a first character and a second level comprises a second character. However, the use of characters in instructional help technique is known in the art as taught by Cook. Specifically, Cook teaches an agent based instruction system which provide student with virtual tutors or on-screen agents (col 5, lines 21-24). The on-screen agents can appear as living entities appropriate for level of a student (for example, "Study Buddies" are on-screen agents of grade schoolers (first character for first level) or a coach is on-screen agent of an adult (second character for second level)) (see col. 5, line 67 to col 6, line 12). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to apply Cook's teaching of using different characters for different levels and/or different students to provide a first character and a second character for the two levels in Massaro's learning system with the motivation being to enhance customized and individualized instructional help method (Cook, col 5, lines 12-19).

Regarding claim 15, Massaro teaches at least two levels of sophistication of the help information (basic level and intermediate level). Massaro further teaches that the two levels of sophistication include a first level (basic level) comprising a first textual content (information presented to the user at basic level) and a second level (intermediate level) comprising a second textual content (information presented to the user at intermediate level) (col. 6, lines 10-24). Massaro differs from the claim in that Massaro does not teach that the first level of sophistication comprises a first voice and the second level of sophistication comprises a second voice. However, Cook teaches that plurality of voices/gestures/ motions can be used in the tutoring system (help information) (see col 6, lines 13-16) depending on the individual student. These voices/gestures/motions are associated with different help agents of different levels. For example, "Study Buddies" level are on-screen agents for grade schoolers, and coach level is on-screen agent of an adult (see col 6, lines 1-5). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural voices associated with plural agents for different help levels to provide first and second voices in Massaro's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 17, Massaro teaches at least two levels of sophistication of the help information (entry level and intermediate level) (Fig. 3). Massaro further teaches that help information can include voice (Massaro, col 6, lines 6-13). Massaro differs from the claim in that Massaro does not teach that the first level of sophistication comprises a first voice and the second level of sophistication comprises a second voice.

However, Cook teaches that plurality of voices/gestures/ motions can be used in the tutoring system (help information) (see col 6, lines 13-16) depending on the individual student. These voices/gestures/motions are associated with different help agents of different levels. For example, "Study Buddies" level are on-screen agents for grade schoolers, and coach level is on-screen agent of an adult (see col 6, lines 1-5). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural voices associated with plural agents for different help levels to provide first and second voices in Massaro's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 18, Massaro teaches that the two levels of sophistication include a first level (basic level) and a second level (intermediate level) (fig. 3) Massaro does not teach that the first level of sophistication comprises a first character and a second level comprises a second character. However, the use of plural characters in instructional help technique is known in the art as taught by Cook. Specifically, Cook teaches an agent based instruction system which provide student with virtual tutors or on-screen agents (col 5, lines 21-24). The on-screen agents can appear as living entities appropriate for level of a student (for example, "Study Buddies" are on-screen agents of grade schoolers or a coach is on-screen agent of an adult) (see col 6, lines 1-5). On-screen agents can be characters (col 10, lines 15). These characters are associated with different help agents of different levels. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural characters associated with plural agents for different

help levels in Massaro's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 20, Massaro teaches at least two levels of sophistication of the help information (basic level and intermediate level) (Fig. 3). Massaro differs from the claim in that Massaro does not teach that the first level of sophistication comprises a first voice and the second level of sophistication comprises a second voice. However, Cook teaches that plurality of voices/gestures/ motions can be used in the tutoring system (help information) (see col 6, lines 13-16) depending on the individual student. These voices/gestures/motions are associated with different help agents of different levels. For example, "Study Buddies" level are on-screen agents for grade schoolers, and coach level is on-screen agent of an adult (see col 6, lines 1-5). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural voices associated with plural agents for different help levels to provide first and second voices in Massaro's learning system with the motivation being to provide customized, individualized instructional helps to different people.

7. Claims 21-23, 25-30, 32-37, and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Massaro.

Regarding claims 21, 28, and 41, Massaro does not teach at least two sections of the program have additional instructional options and the number of levels of sophistication varies between the at least two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Massaro before him at the time the

invention was made, to modify the sections, options, and the number of levels of sophistication taught by Massaro to have at least two sections of the program having additional instructional options and the number of levels of sophistication varying between the at least two sections with the motivation being enhance the flexibility of Massaro's system.

Regarding claims 22, 29, and 36, Massaro does not teach at least two sections of the program have additional instructional options and the type of additional instructional information varies between the at least two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Massaro before him at the time the invention was made, to modify the sections, options, and the type of additional instructional information taught by Massaro to have two sections of the program having additional instructional options and the type of additional instructional information varying between the at least two sections with the motivation being enhance the flexibility of Massaro's system.

Regarding claims 23, 30, and 37, Massaro does not teach at least two sections of the program have additional instructional options and the number of levels of sophistication and type of additional instructional information varies between the at least two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Massaro before him at the time the invention was made, to modify the sections, options, the number of levels of sophistication and type of additional instructional information taught by Massaro to have two sections of the program having additional instructional options and the number of levels of sophistication and type of

additional instructional information varying between the at least two sections with the motivation being enhance the flexibility of Massaro's system.

Regarding claims 25, 32, and 39, Massaro does not teach at least two sections of the program have the type of additional instructional information varies between the at least two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Massaro before him at the time the invention was made, to modify the type of additional instructional information taught by Massaro to have two sections of the program having the type of additional instructional information varying between the at least two sections with the motivation being enhance the flexibility of Massaro's system.

Regarding claims 26, 33, and 35, Massaro does not teach at least one section of the program having no additional instructional options. It would have been obvious to one of ordinary skill in the art, having the teaching of Massaro before him at the time the invention was made, to modify Massaro's teaching to have at least one section of the program having no additional instructional options with the motivation being enhance the flexibility of Massaro's system.

Regarding claims 27, 34, and 40, Massaro does not teach at least one section of the program having an additional instructional option at one level of sophistication. It would have been obvious to one of ordinary skill in the art, having the teaching of Massaro and Cook before him at the time the invention was made, to modify the type of additional instructional information taught by Massaro to have one section of the program having an additional instructional option at one level of sophistication with the motivation being enhance the flexibility of Massaro's system.

Response to Applicant's arguments

8. Applicant's arguments filed on 05/14/08 have been fully considered but they are not persuasive.

Applicant's argument on the 35 U.S.C. 101 rejection is not persuasive.

Regarding claims 16-20 and 35-41, it is noted that "a lesson in the form information on a digital media" as claimed is subject to copyright, not subject to patent. Therefore, the "interactive learning system" as claimed does not belong into any one of four statutory categories (process, machine, manufacture, or composition of matter) for patents.

Applicant argues that Massaro pertains to an application, not an instructional program as required in claim 1. The Examiner respectfully disagrees since Massaro's interface provides instructions in guiding the user what to do (see Fig. 3).

Applicant argues that Massaro does not teach providing "additional instructional information". The Examiner respectfully disagrees. Fig. 3 shows a screen for select assistance level wherein the user can select a level to get assistance. It is apparent that after a level is selected, the user will be provided/presented with additional information. Additional information is especially essential with levels lower than expert level (see col. 6, lines 22-25).

Applicant argues that Massaro "teaches or discloses nothing about presenting information to be learned and then options of additional "instructional information". Massaro only presents one user interface at a time to the user". The Examiner respectfully disagrees. The claims recite "instructional information". It is apparent that

after a level is selected, the user will be provided/presented with additional information. Additional information is especially essential with levels lower than expert level (see col. 6, lines 22-25). For example, as illustrated by Fig. 3, information is presented to the user at basic, intermediate, or advanced levels. The user can select the levels of sophistication at any time he or she desires (line 63 of col. 3 to line 7 of col. 4).

Applicant argues that "There is nothing seen in Massaro that describes "instruction, questions, or question feedback" relative its user interfaces". The Examiner respectfully disagrees since Massaro teaches that additional information (instruction) is presented for levels lower than expert level (col. 6, lines 18-25).

Applicant argues that the claimed invention pre-dates Cook, citing exhibit D, E, F. Applicant's attention is directed to section 3 of the Office Action mailed 03/13/07.

Applicant further argues that "there is no teaching or suggestion in Massaro of varying the number of levels of user interfaces between functions of an application's program" Examiner respectfully disagrees since whereas Fig. 3 shows choice for Basic, Intermediate, and Advanced levels, text of col. 6, lines 18-35 discloses expert level. This teaching suggests that the names and the number of level shown in Fig. 3 are just an example and the name and number of levels can be changed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4057.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore, can be reached at 571-272-4088.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

and / or:

571-273-4057 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kieu D Vu/
Primary Examiner, Art Unit 2175